THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.23170 of 1998

Dated: 27.06.2007

Between:

K.Venkiateswara Rao
.

... Petitioner

AND

The Principal, D.N.R.College,
Bhimavaram, West Godavari District.
And others

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.23170 of 1998

ORDER:-

This writ petition is filed for a writ of mandamus to declare that the petitioner is entitled to 1986 revised UGC Pay Scale of Rs.3,500-5,700 in the selection grade with effect from 1.1.1986.

Learned counsel for the petitioner Sri V.Parabrahma Shastry submitted that the controversy relates to the unaided service rendered by the petitioner for the purpose of working out the pay scales. In **Y.Sidda Reddy Vs. Government of Andhra Pradesh**[1] a Division Bench of this Court held that the unaided service rendered by the teachers of the colleges deserves to be considered for the purpose of extending UGC scheme.

The learned Assistant Government Pleader for Higher Education brought to my notice that the said judgment of the Division Bench was stayed by the Supreme Court. Apart from that he placed before me Act 26 of 2006. Section 4 of the said Act reads as under:

> " 4. Notwithstanding anything contained in any order of the Government or any judgment of any Court or Tribunal, the claims of employees of Private Aided Colleges and Institutions imparting Technical Education for release of Grant-in-aid by counting the increments drawn prior to the date of admission of post of Grant-in-aid shall stand extinguished from the date of commencement of this Act and accordingly:-
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> (1) The orders issued by the Government directing to

take into account the increments earned by an employee of private Educational Institutions prior to the date of admission of posts to Grant-in-aid while releasing grant-in-aid shall stand cancelled:

Provided that any amount paid as per the orders now cancelled and towards Automatic Advancement and Career Advancement Schemes shall not be recovered.

(2) No suit or other proceedings shall be maintained or continued in any Court against the Government by any employee of Private Aided College and Institution imparting Technical Education claiming for release of Grant-in-aid taking into account the increments earned in the post prior to the date of admission of Grant-in-aid or for payment of additional amount on the extension of the Automatic Advancement Scheme and Career Advancement Scheme to such employee except the quantum of Grant-in-aid sanctioned to the post.

(3) No Court shall enforce any decree or order directing release of Grant-in-aid taking in to account the increments earned in the post prior to the date of admission of Grant-in-aid in favour of any employee of Private Aided Colleges and the Institution imparting Technical Education and for payment of additional amount on the extension of the Automatic Advancement Scheme and Career Advancement Scheme to such employee except the quantum of Grant-in-aid sanction to the post."

In view of the fact that the aforementioned Act was made which came into force from 22.4.2006, the petitioner cannot succeed in getting the relief without challenging the vires of the provisions of the said Act. Sri V.Parabrahma Shastry submits that the writ petition may be closed with a liberty to his client to file a fresh writ petition questioning the vires of the said Act.

The writ petition is accordingly dismissed as infructuous with a liberty to the petitioner to file a fresh writ petition in order to question the vires of the Act 26 of 2006. It is needless to say that the petitioner is at liberty to raise all the issues raised by him in this writ petition.

C.V.NAGARJUNA REDDY,J

Dt:27.06.2007
Mdaa.

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[1] 2006(3) ALD 546 = 2006(1) ALT 354